

United States District Court

WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

V.

CASE NUMBER:

MAX RAY BUTLER

UNDER SEAL

07 4011

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about October 15, 2006 and December 2, 2006 in Allegheny county, in the Western District of Pennsylvania defendant(s) did, (Track Statutory Language of Offense)

18 U.S.C. § 1029(a)(3) whoever knowingly and with intent to defraud possesses 15 or more unauthorized access devices, affecting interstate or foreign commerce. Imprisonment: not more than 15 years. Fine: \$250,000.

18 U.S.C. § 1028(a)(7) whoever knowingly transfers or possesses without lawful authority, a means of identification, to wit access devices as defined in Section 1029(e), of another person with the intent to commit
* see Criminal Complaint Attachment.

in violation of Title 18 United States Code, Section(s) 1029, 1028 and 1343.

I further state that I am a(n) United States Secret Service Special Agent and that this complaint is based on the following facts:

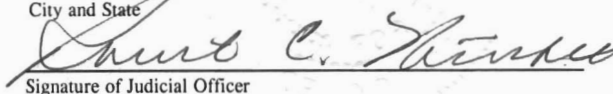
See attached affidavit.

Continued on the attached sheet and made a part hereof: ☐ Yes ☒ No


Signature of Complainant

Sworn to before me and subscribed in my presence,

September 4, 2007
Date
Robert C. Mitchell, U.S. Magistrate Judge
Name and Title of Judicial Officer

at Pittsburgh, Pennsylvania
City and State

Signature of Judicial Officer

CRIMINAL COMPLAINT ATTACHMENT

* or aid or abet, or in connection with, any unlawful activity that constitutes a violation of federal law, to wit, access device fraud in violation of 18 U.S.C. § 1029 et seq. Imprisonment: not more than 5 years. Fine: \$250,000.

18 U.S.C. § 1343 whoever having devised and intended to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent representations and promises by transmitting and causing to be transmitted in interstate or foreign commerce any writing signs, signals and pictures for the purpose of executing the scheme and artifice to defraud credit card issuers. Imprisonment: not more than 20 years. Fine: \$250,000.

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

07 401M

I, John Sechler, being duly sworn, do hereby state and depose as follows:

Introduction

1. I am a Special Agent with the Pittsburgh, Pennsylvania Field Office of the United States Secret Service (USSS).

2. I am submitting this affidavit in support of a criminal complaint charging Max Ray Butler with the sale of unauthorized access devices over the Internet, in violation of Title 18, United States Code, Sections 1028 (identity theft), 1029 (access device fraud), and 1343 (wire fraud). The information set forth in this affidavit is based largely upon my communications with USSS Special Agent Melissa McKenzie, who is the lead agent on the case; my training and experience as a law enforcement agent; and my communications with other law enforcement personnel.

Overview of the Investigation

3. The investigation to date indicates that an individual using the online identities of "Iceman", "Aphex", "Digits" and "Darkest", among others, has been involved in a large scale criminal enterprise of hacking into computer networks to obtain, and thereafter, sell credit card and other identity information. The USSS has been investigating this individual, who, for the reasons set forth below, is Max Ray Butler, for approximately 16 months. Butler also operates a well-known

exchange of stolen identity information within the United States and abroad. Cardersmarket is website that is used by individuals to further their criminal activities known as "carding," which encompasses the process of obtaining credit card account data and related identity information and turning it into useable credit cards before their unauthorized use is discovered.

4. During the course of the investigation, agents of the USSS have consistently monitored the online communication between Butler and two confidential informants operated by USSS (identified herein as CI#1 and CI#2), who are trusted by Butler as members of Cardersmarket. In addition, Butler has given CI#2 certain administrative responsibilities for the Cardersmarket web site. These responsibilities require that Butler share with CI#2 the administrative passwords to secure portions of the website. This association between CI#2 and Butler has placed CI#2 in almost daily contact with Butler for approximately the last 12 months. These communications, which typically occur either through private online chat communications or through America Online Instant Messaging, have all been recorded and reviewed by Agent McKenzie, which has enabled the USSS to gain substantial insights into the working of this identity theft group.

Undercover Purchases From Butler Using the Online Identity of
"Digits" From A Hushmail E-Mail Account

5. On October 15, 2006, Agent McKenzie instructed CI#1

to purchase from an individual using the online identity of "Digits", 23 credit card accounts for the price of \$480.00. After receiving Agent McKenzie's payment of \$480.00 sent to an eGold¹ account specified by "Digits", "Digits" in turn sent an e-mail to CI#1 containing the 23 credit card account numbers, along with the expiration date, type of card, and name of issuing bank for each card. That e-mail from "Digits" originated from an e-mail account address of "digits@hush.com". The investigation to date shows that the Internet Service Provider for that e-mail account is Hushmail Communications Inc., which is located in British Columbia, Canada. On December 2, 2006, Agent McKenzie instructed CI#1 to purchased 38 additional credit card accounts from the individual using the online identity of "Digits" in exchange for a payment of \$456.00, also directed to an eGold account specified by "Digits." In return, "Digits" transmitted the same account information as above for 38 additional credit card accounts, and again did so using the email account digits@hush.com.

6. Secret Service has obtained Internet Protocol ("IP") connection logs for the email account, digits@hush.com. On multiple occasions, the account was accessed from a computer assigned the IP addresses 207.234.185.134, 207.234.185.87, and

¹eGold is a Internet-based, digital currency system in which account values are tied to gold ownership. An eGold account holder can set up an account in a fictitious name and then make or receive online payments backed by gold that may be converted into cash.

207.44.208.35. The first two IP addresses are owned by Affinity Internet Inc. based in Ft. Lauderdale, Florida, and are used by Affinity in connection with a specific customer account contained on their computers; the last IP address is owned by The Planet, Inc., located in Houston, Texas, and is likewise associated with a specific customer account.

7. A pen register obtained by the Secret Service on IP Address 207.44.208.35 revealed that the account was being accessed by IP address 70.7.22.5, a Sprint wireless card. A wireless "card" is simply a modem or device permitting the user to access the Internet by means of a wireless signal. Subpoenaed records from Sprint show that the wireless card was registered to Danny Romanesse. An interview with Jonathan Giannone, an accomplice of Butler, discussed below in detail, revealed that Romanesse was a part of Butler's carding group. Public database records reveal that Romanesse resides in Las Vegas, Nevada.

8. Secret Service thereafter obtained a search warrant for location information for the Sprint wireless card. Although Sprint was unable to pinpoint the precise location, Sprint informed Secret Service that the wireless card transmissions were originating in San Francisco, California, where the defendant, Butler, resides.

Confirmation that Iceman, Aphex and Digits are the Same Person

9. A review of the online conversations between

"Iceman" and CI#2 demonstrate that the individual using the online identity of "Iceman" is indeed the same person using the online identities of "Aphex" and "Digits." In addition to the subject matters of their communications being the same from one online identity to another online identity, Iceman has admitted this fact to CI#2 on several occasions. For example, the following are excerpts of recorded chat communications between the individual using the online identity of "Iceman", in the capacity as the head administrator of cardersmarket.com, and CI#2:

On or about 8/25/06 from Iceman to CI#2:

so obviously i am digits also. might as well say it straight since i blew cover in icq (talking about "our forum" etc)²

it is a pain in the ass trying to keep that separate from people i know an trust and like such as yourself. so there you go

...

anyway reasoning is, iceman is legal. digits is breaking the law. i assumed if i could keep it separate there would be no legal leg to stand on for coming after "me" as the forum admin.

²"ICQ" is an acronym of the phrase "I seek you," and is an online instant messaging program owned by America Online.

On or about 4/26/07 from Aphex to CI#2:

I can't recall but I probably leaked enough info to show digits = iceman=whatever.

On or about 8/06/07 from Aphex to CI#2:

hey just confirming icq 467962223 is really me/digits. Not that I'm planning a whole lot of chat, just like to keep in touch as I phase out my forum presence.

Based upon a review of the preceding recorded chat logs between "Iceman" and CI#2, Agent McKenzie believes that this last comment referred to Iceman's intent to phase out his "forum presence" using the online identity of the "Iceman" as the person running the cardersmarket.com Internet forum, which is discussed further below.

Interview with Jonathan Giannone

10. On April 12, 2007, Special Agent Brad Smith, United States Secret Service, Columbia Field Office, interviewed Jonathan Giannone. Giannone was arrested by the United States Secret Service for wire fraud violations. Giannone admitted that he was a member of the website Cardersmarket, and was known as by the online identity of "Zebra." Giannone stated that, beginning in May 2005, he began working with an individual named Christopher Aragon and another person known to him as "Iceman", to illegally obtain stolen identities, including specifically credit card account numbers. Giannone informed Agent Smith that Aragon ran a counterfeit credit card scheme that involved numerous individuals, including, among

others: 1) Daniel Romanesse, who was a friend and limo driver for Aragon; 2) a short, thin, Asian female who used a screen name of "Alenka" and is also known as "T"; and 3) a woman known as Nancy Diaz. Giannone stated that the individual known to him as "Iceman" had hacked into various financial institutions through wireless networks and stolen large amounts of credit card account numbers. According to Giannone, Iceman sold the stolen credit card numbers over the Internet not only to Aragon, but to other individuals. Giannone stated that Aragon's group would manufacture or re-encode credit cards³ with the stolen credit card information and have his "crew" use those cards to make in store purchases. Once the "crew" made their purchases, they would give much of the merchandise to Aragon's wife, Clara Aragon, who would in turn sell the items on her eBay account. That eBay account was later identified as "Stylish_shelly."

11. Giannone stated that he received stolen credit card numbers directly from Iceman, who communicated from two e-mail addresses: darkest@hush.com and digits@hush.com. Giannone further stated that the two online identities of "darkest" and "digits" were the same person known to him as Iceman, because online communications to Giannone continued from one online identity to

³A "re-encoded" card is an otherwise blank plastic card with a magnetic strip that is encoded with useable credit card data, and may even be designed to look like a legitimate credit card so that it may be used for in-store transactions.

another, indicating it was same individual. Giannone further stated that he would pay Iceman with Green Dot cards. Green Dot cards are pre-paid, re-loadable credit cards. Giannone stated that, to avoid increased law enforcement attention, "Iceman" stopped using the name "Iceman" after the national newspaper, *USA Today*, published an article about credit card theft forums in which his "Iceman" identity and leadership of the Cardersmarket online forum was discussed.

12. Furthermore, Giannone stated that Iceman once asked him to rent an apartment for him in the San Francisco area. Although Giannone claimed that he declined to do so, Giannone told Agent Smith that he believed another member of Iceman's carding group, named Alenka, rented the apartments for him. Giannone believed that they used corporate housing rentals such as Archstone Smith and Oakwood Worldwide because these companies have multiple locations nationwide.

13. Additional information from Giannone tended to further reveal that the individual he knew as Iceman was indeed Butler. According to Giannone, some time in 2004, Giannone sent a book written by the notorious convicted computer hacker Kevin Mitnick to Iceman, who said that he knew Mitnick personally and could get the book signed by Mitnick. Iceman directed Giannone to send the book to a UPS store on Post Street in San Francisco, California to the name of "Daniel Chance." The book was returned

to Giannone several days later, purportedly signed by Mitnick, with a return address of Las Vegas, Nevada, where Mitnick resides. As addressed below, the name "Daniel Chance" is the name used by Butler to rent the Subject Premises.

14. Also important in linking the Iceman persona to Butler is Giannone's statement that he had a telephone conversation with Iceman in which Iceman stated that he had once been investigated for hacking the software code for a computer game called "Half Life." In a separate investigation in 2003, USSS and agents of the Federal Bureau of Investigation (FBI), investigated four individuals in January 2004 who, at the time of the Half Life compromise, resided together in San Francisco, California. These individuals, believed to be associated with the hack of the computer game, were Christopher Toshok, Seth Alves, Charity Majors, and Max Butler. Majors is the long-time girlfriend of Butler, and, as discussed below, Butler's principal residence is presently with Majors. Although Butler was never interviewed at the time, Toshok freely stated that Butler is the person who told him that the security for the computer game Half Life had been breached. Toshok also told investigators that Butler had the capability and knowledge to conduct such an intrusion, and said that Butler appeared to be excited about the intrusion.

Interviews with Jeffrey Norminton and Werner Janer

15. Agent McKenzie has reviewed a December 22, 2005 FBI

interview of Jeffrey Norminton and Werner Janer. At that time, the FBI was investigating Norminton and Janer for identity theft crimes involving the use of stolen credit card account information. Janer and Norminton admitted that they worked with Christopher Aragon and Max Butler in various access device schemes. Janer stated that he gave Charity Majors, known to him as Butler's girlfriend, a five thousand dollar check to start the credit card scheme. Janer and Norminton stated that on various occasions in 2002, they each traveled to San Francisco, California to meet Butler and Aragon in various hotel rooms. From these transient locations, Janer and Norminton saw Butler attacking computer networks through a wireless Internet access point and capture credit card numbers and personal identification information. Janer and Norminton stated that they, along with Butler and Aragon, rented hotel rooms for approximately four days at a time to conduct the hacking activity using an expensive, high-powered antenna that they used to intercept wireless communications to conduct the intrusions. Norminton described Butler as a Caucasian male, approximately 30 years old, around six feet tall, who has a girlfriend named Charity.

16. Janer stated that he knew that Butler had hacked into the Pentagon Federal Credit Union, Citibank, and a government employee's computer. Janer and Norminton stated that Butler gained full profiles and pin numbers of account holders, and gave Aragon

the credit card numbers to have his "crews" make in store purchases and have his wife, Clara Aragon, sell those products on Ebay. Janer described Butler to be a Caucasian male in his early thirties, approximately six feet, five inches tall, 230 pounds, with long brown hair.

17. Norminton stated that he met Butler while they were incarcerated together at the Taft Federal Correctional Institute (Taft FCI) in California. Agent McKenzie has confirmed that Butler did in fact serve a prison sentence at Taft FCI after he was convicted in federal court for the Northern District of California in May 2001 for intentionally accessing a protected government computer belonging to the United States Department of Defense, in violation of 18 U.S.C. § 1030(a)(5)(B). In that case, Butler admitted that he developed a program for the Defense Department and purposely wrote in a "backdoor" access point to the system so that he was able to gain unauthorized access to the Defense Department's computer network.

Aragon is Arrested in Newport Beach, California

18. On May 12, 2007, Christopher Aragon was arrested by officers of the Newport Beach Police Department, Newport Beach, California, for using counterfeit/re-encoded American Express Gift Cards to purchase approximately \$13,000 worth of designer purses in one day at a shopping mall. Aragon's arrest was the result of a lengthy investigation of Aragon and others associated with him by

Newport Beach Police Department. Several individuals were arrested in connection with Aragon's identity theft activities, including his wife, Clara Aragon, and Nancy Diaz Silva. Newport Beach Police have informed Agent McKenzie that a search of Aragon's cell phone located in his vehicle revealed text messages discussing carding activity with numerous individuals. For example, Aragon received a message from an unknown individual bragging about making \$7,000 in purchases on one card alone, and discussed how to obtain more credit cards and how to divide the proceeds. Another text message to Aragon, from "Nancy 3", believed to be Nancy Diaz Silva, states "I just did 3 more at dillards for 400 and nothing what is wrong they need approval it says." According to Newport Beach Police reports, this was the last message between Aragon and "Nancy 3" related to problems they were having attempting to use some credit cards at Dillard's department store and Walmart. Aragon is currently incarcerated in California, facing trial in Orange County for identity theft related charges. Clara Aragon has entered a guilty plea to theft-related charges and is awaiting sentencing.

19. According to the Newport Beach Police Department, a search of Aragon's residence revealed numerous "Green Dot" prepaid credit cards. Agent McKenzie subpoenaed Green Dot Corporation to determine where these Green Dot credit cards had been used. Information from Green Dot Corporation showed that, out of 14 cards for which information was subpoenaed, at least three were used

almost entirely in the San Francisco, California area, with many transactions within walking distance of known residences of Butler. For example, a Green Dot card ending in the last four digits of "2010", which was opened November 30, 2006 in the name of "Chris Aragon," shows that it was used almost exclusively in the San Francisco, California area. Moreover, the same card was used in Vancouver, Washington on May 14, 2007, two days after Aragon was arrested; Agent McKenzie searched public databases for address information concerning Butler and found addresses associated with him in Vancouver, Washington, but found no such addresses associated with Aragon. The last date that the records reveal this card was used is May 18, 2007, in San Francisco, California, to **make a purchase at Virgin Mobile, a cellular phone provider.** This corresponds with an ICQ discussion on or about August 6, 2007, between CI#2 and Butler (again using his anonymous ICQ account), in which Butler recounted that he threw away his cell phone, among other things, to distance himself from Aragon following Aragon's arrest. It therefore appears that Butler quickly departed San Francisco immediately following Aragon's arrest, and when he returned several days later, obtained a new cell phone. This is also consistent with Giannone's statement above that he paid Butler for stolen credit card account numbers using pre-paid and loadable Green Dot cards.

Interview of Christopher Aragon

20. On August 31, 2007, Agent McKenzie interviewed Christopher Aragon at the Orange County Jail. Aragon admitted that he and his "partner," Max Butler, who he said he refers to as "Sam" in order to protect Butler's identity, founded Cardersmarket in 2005. Aragon described Butler as approximately 6'5" tall and weighing around 220 pounds, and stated that Butler often wears a ponytail but occasionally cuts it off. Aragon was able to identify Butler from a photo lineup presented to him by Agent McKenzie. Aragon stated that he met Butler in approximately 2002 shortly after Butler had gotten out of federal prison, and agreed to help Butler, who at the time was financially destitute, acquire computer equipment so that they could make money together through illegal hacking and identity theft activity. Eventually, their relationship became a full-time criminal enterprise whereby Butler hacked and obtained credit card numbers and other account and personal identification information, and sold that information online to Aragon, although Butler also sold the information to others worldwide. Aragon's role was to take the stolen card numbers and use them to purchase physical merchandise that could be sold. The proceeds were then used to pay Butler and himself, and to pay a group of associates of Aragon who assisted in making the fraudulent purchases using the stolen credit card account numbers. Aragon stated that he paid Butler in various ways, including

through sending him prepaid Green Dot credit card numbers, paying Butler's bills directly, and depositing money into Butler's bank account.

21. Aragon stated that Butler used the online nicknames of "Iceman", "Digits", "Aphex" and "Darkest", among others. He stated that he met with Butler at least once per month at Butler's apartment in San Francisco. Aragon stated that Butler always kept an apartment in a false name, in addition to an official residence, for the purpose of conducting his illegal hacking activity. Aragon confirmed that Aragon had arranged for his associate, Nancy Diaz, to rent the last apartment for Butler in San Francisco, California, although he could not remember the specific address. When asked whether Butler ever maintained a third address, Aragon said that Butler never did so and that he maintained just two addresses at any given time. Aragon stated that he supplied Butler with false identities to allow him to avoid law enforcement. Aragon recalled that one of these aliases was in the name of "Daniel Chance."

22. Aragon further stated that, while present in Butler's past safehouse apartments, including within the past year, he has personally observed Butler hack into numerous computers, including data processing centers and financial institutions, to obtain credit card account and other personal financial information. He has also personally observed Butler send emails using the digits@hush.com account, the same account from which

Agent McKenzie made purchases of credit card numbers through CI#1, as addressed above. He further confirmed that he provided a wireless Sprint card to Butler in the name of his friend, Daniel Romanesque, although Aragon denied that Romanesque had any involvement with the scheme.

23. Aragon recalled that Butler told him he had contacted the newspaper *USA Today* concerning the carding forum "Darkmarket," and that Butler had used the "Iceman" nickname to do so. Aragon told Butler that he was foolish to do so, and said that this was out of character for Butler, who preferred to keep a low profile.

24. Aragon stated that Butler uses a laptop computer primarily for low-level computing work, such as to send correspondence and stay up to date on the Cardersmarket forum. Aragon said that Butler uses two or more powerful desktop computers and a state-of-the-art antenna for his hacking activity. He said that Butler is very security conscious, and uses high-level encryption programs, among other things, to prevent law enforcement from obtaining any information in a search. According to Aragon, Butler also uses "killswitch" activated programs that are designed to destroy evidence immediately. Aragon stated that, if Butler is within reach of his computer, he needs only "two keystrokes" to destroy the evidence on the computer. Aragon also stated that, although Butler is logged on a various times during the day, he is

primarily active on his computers "late at night." Aragon said that he does not know where Butler is living currently, as Aragon has been in custody since May 2007.

25. When asked how many credit card numbers he has received from Butler, Aragon stated that he has received "tens of thousands" of illegally obtained credit card account numbers from Butler, and regularly received 1,000 such numbers or more per month from Butler.

Interview of Tsengelseteg Tsetsendelger, a/k/a "Alenka" or "T"

26. As indicated above, one of the individuals Giannone stated was involved with Max Butler and Christopher Aragon in illegal carding activities, was an Asian woman he knew as "Alenka" or "T." In April 2007, Tsengeltsetseg Tsetsendelger, aka "Alenka" and hereinafter referred to as Alenka, a Mongolian national, was arrested along with Tseveenravda Sondor by the Emeryville Police Department, Emeryville, CA. Alenka along with Sondor were arrested for using counterfeit credit cards to purchase handbags. Alenka pled guilty on or about June 7, 2007 and was sentenced to five years probation.

27. Alenka was interviewed on July 2, 2007 and August 14, 2007 by agents of the Secret Service. She confirmed that her online nicknames were "Alenka" and "T." Alenka gave a detailed account of her involvement in extensive carding activity with Christopher Aragon. Alenka also stated that Aragon obtained the

credit card account numbers from one individual who used the online identities of "Iceman", "Aphex", "Art of War", "Digits", and "Darkest." These nicknames coincide with Gionnone's statement that he obtained stolen credit card account numbers from an individual who used the names "Iceman", "Digits", and "Darkest." Alenka stated that she knew the individual who used these online nicknames as "Sam." She said that Sam is part of the group and that she knows he has a criminal history related to computer hacking. She communicated through the Internet with Sam about hacking of various computer systems to obtain identity information, and she assisted in taking IP address information captured by Sam through hacking activity and determining which IP addresses were linked to valuable targets where identity information would be stored. Alenka stated that Aragon paid Sam for card numbers through Western Union or through prepaid Green Dot accounts.

28. Although she never met Sam personally, Alenka did say that on at least one occasion, in March of 2006, she and Aragon were eating at a restaurant in San Francisco when a Caucasian male, she described as being very tall, with a long ponytail, walked in to pick up food. Aragon told Alenka that the individual was Sam. This description is consistent with the most recent physical surveillance of Butler, who is a Caucasian male, approximately 6'5" tall, with a long ponytail. In a photo lineup in which the ponytail was not visible, Alenka was unable, however, to positively

identify Butler as the same man Aragon identified as "Sam."

29. According to Alenka, she saw Aragon ship plastic cards of an unidentified type to Sam in San Francisco and would use the name "Dan" as the intended recipient, although she could not remember the last name used. This corresponds to Butler's use of the name Daniel Chance as an alias, also used to rent the subject premises.

30. On one occasion, Alenka was taken to an apartment in San Francisco, California that she was told belonged to Sam. She recalled this apartment to be located on the corner of Market Street and Polk Street in San Francisco, CA, and was named Fox Plaza. Alenka stated the apartment was located on the 20th floor, and was either apartment number 2010 or 2024. Alenka stated she was told by Aragon that the apartment was rented for Sam by Nancy Diaz. Alenka stated that she knew Diaz as they were part of a group that socialized regularly with Aragon. Alenka visited the apartment to facilitate delivery of a bed she was asked by Aragon to purchase for Sam. Alenka stated that Aragon told her that Sam would never rent an apartment in his own name for fear of being discovered by law enforcement. Agent McKenzie subpoenaed the records for the Archstone facility at Fox Plaza, 1390 Market Street, San Francisco, California, and confirmed that Apartment 2024 had been rented to Nancy Diaz Silva beginning on December 20, 2006. According to the apartment house records, Diaz was

purportedly a sales representative of a company called Capital Solutions. The tenant was eventually evicted for nonpayment of rent on June 15, 2007. As discussed below, the timing of the eviction corresponds to the apparent change of residence by Butler.

31. In addition to the timing of the eviction, renting a corporate apartment in the name of another person, and Aragon's testimony that Butler did so in order to conceal his illegal hacking and carding activities from law enforcement, Butler's intended goals of evading detection and physically separating himself from locations which may contain evidence of criminal activity was illustrated in a August 6, 2007 communication between CI#2 and "Iceman", wherein Iceman discussed Aragon's arrest and the search of Aragon's residence:

"shit i wonder what kind of records he kept on all that... i mean if he was sloppy enough to have equip at his house...well all I know is if he was spilling info I would [sic] arrested and sitting in a cell long ago (despite my evasive move)."

It is therefore apparent that Butler's *modus operandi* is to use a safehouse in another person's name to conduct operations, and that when Aragon was arrested and was the only person Butler knew could identify him, he switched safehouses to the Subject Premises, as discussed below.

Butler Moves His Carding Operation

32. Butler's official residence or residence for public purposes was located through a search of public databases that

revealed the address of his girlfriend, Charity Majors, as 73 Webster Street, San Francisco, California. Thereafter, on May 18, 2007, USSS obtained from Guadalupe Bocog of the United States Postal Inspection Service the names of the residents receiving mail at 73 Webster Street, San Francisco, California. Although Butler was not listed as receiving mail at the residence, his girlfriend Charity Majors was listed. The mail cover revealed that mail was being received at the residence from U.S. Bank.

33. On June 4, 2007, Agent McKenzie received subpoenaed records from U.S. Bank, showing that Charity Majors and Max Butler have a joint bank account listing 73 Webster Street, San Francisco, California as the current address of record. The records show that, on or about July 18, 2003, while the account was listed under the address of 283 Dolores Street, San Francisco, California, Butler was added to the account as a joint account holder. This corresponds with information learned during the FBI investigation into the hack of Half Life, as discussed above, which revealed that Majors and Butler were residing together at the Dolores Street address as of January 14, 2004. In approximately August of 2005, the address of record for the joint bank account was changed to 73 Webster Street, San Francisco, California.

34. On June 6, 2007, agents from the San Francisco Field Office of the United States Secret Service responded to the neighborhood of 73 Webster Street, San Francisco, California, and

began surveillance of the residence at approximately 0500 hours. At approximately 0730 hours, subject Majors was observed by Agent Daniel Yang arriving at 73 Webster Street, San Francisco, CA.

35. On June 7, 2007, at approximately 7:00 p.m., Agent Stephen Bean observed Butler arrive via bicycle and enter the residence located at 73 Webster Street, San Francisco, California. Butler was described as a Caucasian male, approximately six feet, five inches tall, with long brown hair kept in a ponytail, and approximately 30 years of age. Although Norminton described Butler as approximately six feet tall, Agent Bean's description is consistent with that of Butler given by Janer, Alenka and, most notably, Butler's closest associate, Aragon.

36. Later that same evening, agents observed Butler walk from 73 Webster Street to a Zip Car rental location nearby, and leave moments later with a red Mustang rental car. Butler drove the car to 73 Webster Street, and then entered the residence. Shortly thereafter, agents observed him return to the red Mustang carrying what appeared to be a computer tower and a green bag with beige straps. After placing these items inside the vehicle, Butler went back inside the 73 Webster Street residence, and re-emerged shortly thereafter carrying what appeared to be a computer monitor, which he also placed inside the Mustang. Agents then observed Butler drive the Mustang from 73 Webster Street to 639 Geary Street, San Francisco, California, the location of the Subject

Premises. This address is a corporate housing complex named Oakwood/Geary Courtyard. After arriving at 639 Geary Street, Agent Bean observed Butler take the items from the Mustang, including the computer monitor and tower, into the apartment building at 639 Geary Street. Afterwards, agents observed Butler depart 639 Geary Street and return the Mustang to the Zipcar rental location, before walking back to the 73 Webster Street address. Later the same evening, agents observed Butler emerge from 73 Webster Street carrying a box, and transport that box to 639 Geary Street by means of a taxicab.

37. On August 17, 2007, Special Agent Kim Podsiadly of the San Francisco Field Office of Secret Service followed Butler through the lobby of the Oakwood Courtyard Apartments and rode the elevator with him to the fourth floor, where she observed him enter Apartment 409. Podsiadly observed that Butler's hair had been cut and that he no longer wore a ponytail. Agent McKenzie subsequently subpoenaed Oakwood Courtyard Apartments and learned that Apartment 409 is rented in the name of "Daniel Chance." Oakwood Courtyard provided a photocopy of the driver's license given for the resident, which is a photograph that matches the appearance Max Butler but which lists the name Daniel Chance, the same name identified by Giannone as used by Iceman, and corresponding to the name "Dan" given by Alenka for Sam, also known as Iceman. Oakwood Courtyard also provided a letter by a "Julius Menge" enclosing

money orders for \$3,090 for the prepayment of rent for the apartment. The letter states that the payments "is submitted on behalf of Julius Menge, co-owner of GNR Software Solutions. The name of the individual who will be checking into the residence is Daniel D Chance, who will be checking in on June 7, 2007." This procedure of one named individual renting for another named individual is similar to the last rental of Fox Plaza, 1390 Market Street, San Francisco, California in which the name of "Nancy Diaz" of Corporate Solutions was used to rent the apartment for another person.

38. Agent McKenzie then obtained a copy of the actual driver's license of Daniel Chance, identified by the Social Security Number listed on the rental application. The true photograph on the true driver's license for Daniel Chance depicts a completely different individual, who appears to be approximately 50 years of age with a beard. Many of the personal identifiers are the same, but one notable exception is the change in height from 6'0" for the actual Daniel Chance license to 6'5" for the Daniel Chance who rented the Subject Premises.

Ongoing Carding Activity by Butler

39. Up until August 30, 2007, CI#2 continued to correspond with Butler, who continued to use the online identity of "Aphex", about carding activity as part of the Cardersmarket forum, which remains active; however, since the arrests of Christopher and

Clara Aragon and of Jonathan Giannone, which Aphex has discussed openly with CI#2, stating that he knew the Aragons personally, Aphex has been in the process of phasing out his past aliases, including Iceman and Digits. Instead, he has created new aliases and has assigned certain carding activities to other unknown individuals in the Cardersmarket forum. For example, as quoted above, on or about August 6, 2007, Aphex corresponded with CI#2 about the phaseout of the aliases he has used on the forum. In another recent message, Digits stated the following in an announcement about credit card data "dumps" posted on the Cardersmarket forum:

Re Dumps from Processing Centers

I had just started sending out notice to all customers this morning...there is nothing wrong just that I am very busy and feel Unauthorized [another administrator on the web site] can handle sales much better than I can. I will edit my posts to reflect this change in a few minutes.

40. Postings by Butler, using the "Aphex" nickname, on the Cardersmarket online forum in more recent weeks showed that he continued to engage in carding activity. For example, as recently as August 19, 2007, Aphex engaged in a discussion on the Cardersmarket website regarding identifying particular monetary accounts that had been blocked because the account holders had made sales to law enforcement. On August 16, 2007, Aphex made postings regarding CVV codes used as a security feature on credit cards, as well as credit card "skimmers," devices used to read and record

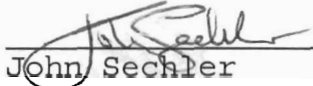
credit card data when the card is swiped through the device. Aphex also engaged in discussions on August 13, 2007 about credit card sales, stating, "Well, we do want to hear about progress of existing orders, to make sure matters are getting settled." That message was entitled, "Best Quality Plastic and Best Price Ever." "Plastic" is a common reference to credit cards. In the same posting, Aphex happens to mention that "Zebra [i.e. Giannone] is a kid from NYC who is now believed to be a CI. He was busted nearly two years ago...."

41. On August 30, 2007, the Cardersmarket website was taken off line by Aphex. Although not observed by the USSS confidential informants, CI#2 reported to Agent McKenzie that CI#2 went onto other carding forum websites and saw unknown individuals on the forum make references to a posting that had been placed by Aphex on cardersmarket.com just before the site abruptly disappeared, reportedly stating that he was "retiring" and "selling" the forum, and warning those on the forum to watch out for law enforcement. After a period of several hours, the Cardersmarket website reappeared, purportedly under a new administrator who uses the nickname "Admin." There are several reasons to believe that Butler is simply operating the site through a new nickname, again to distance himself from law enforcement. First, the style of writing used and the stated plans of Admin and Iceman/Aphex, such as a plan to bring the memberships of two other

carding forums, Cardersworld and Grifters, under Cardersmarket, are the same. Second, CI#2 was able to reach Butler through ICQ outside of Cardersmarket, and explained that he was unable to access the secure portions of the website because the administrative password had been changed. When CI#2 asked Butler if CI#2 should contact the "new" administrator of the forum to obtain the new password, Butler stated that he had it and produced it to CI#2 within 30 seconds, something that CI#2 believes is completely inconsistent with new ownership of the forum. Third, CI#2 observed that the time when Butler's ICQ account and "Admin" were logged online corresponded exactly, such that, after his ICQ conversation with Butler concerning the new password, CI#2 observed that both Butler's ICQ account and "Admin" terminated their online sessions. Although these are separate programs and therefore require separate actions, their termination occurred nearly simultaneously, strongly suggesting that Butler is the same person as Admin. Fourth, when Butler phased out his Iceman nickname in approximately the fall of 2006, and purportedly transferred ownership of Cardersmarket to "Aphex", he did so in the same manner, including stating that he was "retiring."

42. The Cardersmarket forum continues to operate and discuss illegal carding activity as of the date of this affidavit.

43. The above information is true and correct to the best of my knowledge, information and belief.



John Sechler
Special Agent
United States Secret Service

Sworn and subscribed before me
this 4th day of September, 2007.



United States Magistrate Judge